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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,771	12/20/2001	Kenji Otsuka	217364US3X	6898
22850	7590	01/23/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.			ZERVIGON, RUDY	
1940 DUKE STREET				
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
			1763	

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/022,771

Applicant(s)

OTSUKA ET AL. 

Examiner

Rudy Zervigon

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,6 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Election/Restrictions

1. Applicant's election with traverse of group II, claims 3-5 of October 23, 2003 is acknowledged. The traversal is on the ground that "the claims in Groups I, II, and III can be examined together with no undue burden. No undue burden is seen here since similar subject matter must be searched and considered relative to the elected Claims 3-5.". This is not found persuasive because the inventions of I and II have acquired a separate status in the art as shown by their different classification, further, inventions of I,II and III have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holst, Mark et al (U.S.Pat. 5,955,037) in view of Richards, Clyde N (U.S.Pat. 6,156,098). Holst teaches:

- i. A cleaning apparatus (710; Figure 10; column 20, line 63 - column 21, line 18) for cleaning exhaust gas (604; Figure 10; column 19, lines 30-40) coming from a production apparatus (602; Figure 10; column 19, lines 30-40), wherein an electroconductive corrosion-resistant material (steel; column 14, lines 43-49) is used as the constructional material for introduction piping, as claimed by claim 3. Applicant's claim requirement of a production apparatus "for

producing a gallium nitride film semiconductor by subjecting gallium chloride gas as a gallium source which is generated through the circulation of hydrogen chloride gas over metallic gallium to vapor phase deposition through the reaction with ammonia so as to form a gallium nitride film" are requirements of intended use of the claimed "production apparatus".

Further, it has been held that claim language that simply specifies an intended use or field of use for the invention generally will not limit the scope of a claim (Walter , 618 F.2d at 769, 205 USPQ at 409; MPEP 2106). Additionally, in apparatus claims, intended use must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim (In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto , 136 USPQ 458, 459 (CCPA 1963); MPEP 2111.02).

- ii. The cleaning apparatus according to claim 3, wherein the electroconductive corrosion-resistant material is selected from the group consisting of stainless steel (steel; column 14, lines 43-49), high nickel steel, electroconductive resin and a metallic material coated with electroconductive resin, as claimed by claim 4
- iii. The cleaning apparatus according to claim 3, wherein the cleaning apparatus is a wet absorptive cleaning apparatus, as claimed by claim 5

Holst does not teach that the introduction piping is electrically grounded, or that Holst's steel is "stainless".

Richards teaches a grounded scrubber (title; Figure 1) that treats flue gasses (column 3, lines 7-44).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to ground Holst's scrubber as taught by Richards (column 5, lines 1-6) and to use stainless steel in place of steel as taught by Holst (column 27, lines 10-14).

Motivation to ground Holst's scrubber as taught by Richards and to use stainless steel in place of steel as taught by Holst is for restricting static discharges and to employ an alternate and equivalent material respectively.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Rudy Zervigon whose telephone number is (571) 272.1442. The examiner can normally be reached on a Monday through Thursday schedule from 8am through 7pm. The official after final fax phone number for the 1763 art unit is (703) 872-9311. The official before final fax phone number for the 1763 art unit is (703) 872-9310. Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Chemical and Materials Engineering art unit receptionist at (703) 308-0661. If the examiner can not be reached please contact the examiner's supervisor, Gregory L. Mills, at (571) 272-1439.

Rudy Zervigon
11/4/4